

# MISSISSIPPI DIVISION OF MEDICAID

## Eligibility Policy and Procedures Manual

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#### **304.01.05H PENALTY PERIOD**

The number of months of ineligibility for an institutionalized individual shall be equal to:

- The total, cumulative uncompensated value (UV) of all assets transferred by the individual (or individual's spouse) on or after the look back period  
divided by
- The average monthly cost to a private pay patient for nursing facility services in Mississippi. The average private rates are:
  - Effective 02/08/06 ongoing - \$4,600.00
  - From 03/01/03 -- 02/07/06 - \$3,100.00
  - From 04/01/99 -- 02/28/03 - \$2,600.00
  - From 10/01/93 -- 03/31/99 - \$2,000.00

#### **304.01.05I DRA PROVISION - PARTIAL MONTH PENALTY**

Under the DRA, when the amount of the transfer is less than the average monthly cost of nursing facility care, a penalty is imposed for less than a full month. This is called a partial month penalty.

Rounding down or otherwise disregarding any fractional part of an ineligibility period when determining the penalty period is not allowed effective 02/08/06. The average daily per diem of \$151.00 is used in determining the partial month penalty period.

#### **Example**

An individual makes an uncompensated transfer of \$30,534.00 in April 2006. He applies for Medicaid coverage for long-term care services in September 2008. The transfer falls within the 5 year look back period.

Therefore, the uncompensated transfer amount of \$30,534.00 is divided by the average monthly rate of \$4,600.00 and equals 6.64 months. The full 6 month penalty runs from September 1, 2008 (the month eligibility is requested) through February 28, 2009 with a partial month penalty calculated for March 2009. The penalty calculation is as follows:

**Step 1:** \$30,534.00 uncompensated transfer amount divided by \$4,600.00 average monthly private pay rate = 6.64 months in the penalty period

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#### **DRA Provision - Partial Month Penalty - Example (Continued)**

**Step 2:** \$4,600.00 average monthly private pay rate (x) 6 six full months penalty period = \$27,600.00 penalty amount for six full months

**Step 3:** \$30,534.00 uncompensated transfer amount (less) \$27,600.00 penalty amount for 6 full months = \$2,934.00 partial month penalty amount

**Step 4:** \$2,934.00 partial month penalty amount (divided by) \$151.00 daily rate (will be used for all transfers effective 2/8/2006) = 19.43 days or 19 days for partial month penalty

The month of March 2009 will have 19 days that a vendor payment will not be made to the nursing facility. Vendor payments will begin on day 20. Thus the total penalty period for the transfer of \$30,534.00 will be September 1, 2008 through March 19, 2009.

#### **HCBS and the Partial Month Penalty**

If a transfer is discovered in an ongoing waiver case, the penalty period will be calculated the same as nursing home cases with the exception of the partial month. The penalty begins the month the transfer occurred; however, the “partial month” is extended to the end of the month for HCBS cases.

If the penalty period has not expired, the case will be closed and an improper payment report will be completed for the prior ineligible months. If the penalty period has expired, an improper payment will be completed for the transfer penalty period and the case will remain open. The client must be given the opportunity for rebuttal prior to preparing the improper payment report.

#### **304.01.05J DETERMINING THE PENALTY WHEN PENALTY PERIODS OVERLAP**

All countable transfers occurring during the look-back period are totaled and the penalty period determined by dividing the total UV by the average private pay rate. The first month of the transfer penalty period is the month in which the first countable transfer occurred.

Transfers that occur after a penalty period is in effect are added in full to the end of the penalty period currently in effect. There is no limit on the number of months a transfer penalty can be imposed. The penalty period is always determined by the total UV calculated during the look back period.